

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

ROGELIO GUZMAN and MARIA G.)	CIVIL NO. 11-00126 LEK-BMK
GUTIERREZ,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
CENTRAL PACIFIC HOME LOANS,)	
INC., BAC HOME LOANS)	
SERVICING, LP, BANK OF)	
AMERICA, N.A., MORTGAGE)	
ELECTRONIC REGISTRATION)	
SYSTEM, INC. and FEDERAL)	
NATIONAL MORTGAGE)	
ASSOCIATION,)	
)	
Defendants.)	
_____)	

ORDER TO SHOW CAUSE

On March 1, 2011, Plaintiffs Rogelio Guzman and Maria G. Gutierrez ("Plaintiffs") filed their Complaint against Defendants "Central Pacific Home Loans, Inc.",¹ BAC Home Loans Servicing, LP ("BAC"), Bank of America, N.A. ("BANA"), "Mortgage Electronic Registration System, Inc.",² and Federal National Mortgage Association ("FNMA") (collectively, with the footnoted corrections, "Defendants"). On April 20, 2011, Defendants BAC, BANA, MERS, and FNMA (collectively, "Moving Defendants") filed

¹ Plaintiffs mistakenly identify Central Pacific Homeloans, Inc. ("CPH") as "Central Pacific Home Loans, Inc."

² Plaintiffs mistakenly identify Mortgage Electronic Registration Systems, Inc. ("MERS") as "Mortgage Electronic Registration System, Inc."

their Motion to Dismiss Plaintiffs' Complaint. [Dkt. no. 9.] The Court set the Motion to Dismiss for hearing on June 27, 2011. CPH filed an answer to the Complaint on May 3, 2011. [Dkt. no. 11.]

On May 11, 2011, Plaintiffs filed their First Amended Complaint against Defendants. [Dkt. no. 13.] On May 25, 2011, Moving Defendants filed their Motion to Dismiss Plaintiffs' First Amended Complaint ("Motion"), [dkt. no. 21,] which seeks to dismiss with prejudice Plaintiffs' First Amended Complaint for failure to state a claim upon which relief can be granted. [Motion at 1.] The Court set the Motion for hearing on June 27, 2011. CPH filed an answer to the First Amended Complaint on May 31, 2011. [Dkt. no. 23.]

On June 1, 2011, the Court issued its Order Regarding Defendants' Motion to Dismiss Plaintiffs' Complaint, [dkt. no. 24,] finding that Plaintiffs' Complaint, filed on March 1, 2011, had been superceded by their First Amended Complaint, filed on May 11, 2011. The Court denied as moot Moving Defendants' Motion to Dismiss Plaintiffs' Complaint, filed on April 20, 2011, and vacated the hearing on said motion. The Court informed the parties that the hearing on Moving Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint would proceed as scheduled on June 27, 2011.

On June 8, 2011, the Court issued its Inclination and

Order Regarding Plaintiffs' Response to Defendants' Motion to Dismiss Plaintiffs' Complaint, [dkt. no. 25,] finding that Plaintiffs failed to file an opposition to the Motion by June 6, 2011 pursuant to Local Rule 7.4 and vacating the hearing on the Motion pursuant to Local Rule 7.2(d).

On June 9, 2011, CPH filed its joinder in the Motion ("Joinder"), seeking to join Moving Defendants in simple agreement with the relief sought in the Motion. [Joinder at 2.]

To date, Plaintiffs have not filed a memorandum in opposition to either the Motion or the Joinder. Rule 41(b) of the Federal Rules of Civil Procedure authorizes a court to involuntarily dismiss an action when "the plaintiff fails to prosecute or to comply with these rules or a court order[.]"

Accordingly, the Court HEREBY ORDERS Plaintiffs' counsel to appear before this Court on **Monday, July 13, 2011, at 2:30 p.m.**, to show good cause, if any, why their First Amended Complaint should not be dismissed with prejudice for failure to prosecute. Plaintiffs have until **Monday, June 29, 2011** to file a written response to this Order. Defendants may file an optional reply no later than **Tuesday, July 6, 2011**. Plaintiffs' counsel shall be physically present for the hearing on this Order.

The Court directs the Clerk's Office to serve this Order on Plaintiffs via certified mail, return receipt requested.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAII, June 15, 2011.



/S/ Leslie E. Kobayashi
Leslie E. Kobayashi
United States District Judge

ROGELIO GUZMAN, ET AL. V. CENTRAL PACIFIC HOME LOANS, INC., ET
AL; CIVIL NO. 11-00126 LEK-BMK; ORDER TO SHOW CAUSE